



OCT 01 2001

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In re Application of :
Dosuk D. Lee et al. :
Application No.: 09/284436 :
PCT No.: PCT/US97/18528 :
Int. Filing Date: 16 October 1997 : DECISION
Priority Date: 16 October 1996 :
Attorney's Docket No.: 04712/02000F :
For: Bioceramic Compositions :

This is a decision on applicants' "Renewed Petition Under 37 CFR §1.48(a)" filed on 08 June 2000, which is being treated under 37 CFR 1.497(d).

DISCUSSION

A grantable petition under 37 CFR 1.497(d) must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (2) an oath or declaration by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the petition fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.). The communication mailed on 27 April 2000 indicated that requirements (1) and (3) had been satisfied.

With respect to requirement (2), the declaration filed on 08 June 2000 satisfies the requirement.

Regarding requirement (4), the "Petition to Correct inventorship-- Consent of Assignee" and "Certificate Under 37 CFR 3.73(b)" provide the consent of Etex Corporation. However, it is not clear that Etex Corporation is currently the assignee of the entire interest in this application. Specifically, on 10 April 2000, a "Security Agreement" was recorded in the USPTO (at Reel/Frame number 010740/0718) which purports to grant a security interest in favor of Medtronic Asset Management, Inc. in a plurality of applications, including this application. However, the same "Security Agreement" indicates, on its last page, that the "Total number of applications and patents involved" is "One." Thus, the assignment status of this application is not clear. Petitioner is required to clarify the assignment status of this application and, if Etex is not the assignee of the entire interest, to provide the consent of any other assignee.

CONCLUSION

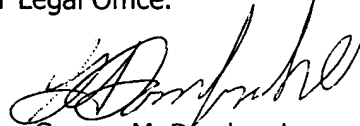
The petition under 37 CFR 1.497 (d) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)". No additional processing fee is required.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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